

REMARKS

This is in response to the Office action mailed January 15, 2003.

The Examiner has rejected claims 2 through 31 and 68 under 35 U.S.C. § 112, second paragraph, on the grounds that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. Applicants respectfully traverse the rejection. Applicants respectfully submit that the claims particularly point out and distinctly claim the subject matter which applicants regard as their invention for the reasons set forth hereafter.

In rejecting claims 2-13 and 16-31, the examiner states that:

Claim 1, from which the above claims depend, recites that the cartridge holder is "constructed to receive a cartridge" (emphasis added), thus claim 1 lists the specific function of the cartridge holder as receiving a cartridge. Claims 2 and 16 recite "a cartridge" again thus these claims imply that there is another cartridge that is received in the holder. This is clearly contrary to the specification, thus rendering claims 2-13 and 16-31 indefinite.

As discussed hereafter and in applicants' December 9, 2002 Amendment, applicants respectfully submit that the claims are definite and not contrary to the specification as claim 1 does not call for a cartridge. Claim 1 only calls for a

cartridge holder "constructed to receive a cartridge."  
Notwithstanding, applicants have amended claim 1 to make it clear that claim 1 does not call for a cartridge. Claim 1 only calls for a cartridge holder which is constructed to support a cartridge. Dependent claim 2 claims the cartridge as part of the claimed screw gun. Accordingly, applicants respectfully request that the examiner reconsider and withdraw the rejection of claims 2-31 on the grounds that the claims particularly point out and distinctly claim the subject matter which applicants regard as their invention.

In the § 112 rejection, the examiner also makes reference to claims 1, 10-13, 15 and 28-31 referencing the fastening means. Specifically, the examiner states that:

Also, claim 1 is to a screw gun "for driving a fastening means" and applicants argue that the fastening means is not part of the invention. Claims 10-13, 15 and 28-31 recite only structure of the fastening means, thus it is confusing as to how the screw gun of claim 1 can be used to drive a fastening means and also include a fastening means at the same time as required by these claims.

Applicants respectfully submit that the claims are definite with respect to the fastening means. Specifically, the preamble of claim 1 calls for a "screw gun for driving a fastening means." The preamble, thus, states the purpose of the screw gun. The dependent claims 10-13, 15 and 28-31 specifically claim a fastening means located in the cartridge of the screw gun. Notwithstanding, applicants

have amended the claims to clarify the reference to the fastening means.

The examiner has further rejected claim 14 under § 112, second paragraph, for no antecedent basis for "the head of said fastening means." Applicants have amended the claims and respectfully submit that there is now antecedent basis for all elements of claim 14.

The examiner has rejected claims 1 and 68 under 35 U.S.C. § 102(b) as being anticipated by any of Parsons, U.S. 4,936,169; Potucek et al., U.S. 3,930,297 or Manino, U.S. 4,367,837. Applicants respectfully traverse the rejection.

35 U.S.C. § 102(b) is only applicable if the cited reference discloses each and every element of the claimed invention. In this case, none of the references relied upon by the examiner disclose each and every element of the claimed invention of claims 1 and 68. Specifically, claim 1 calls for a screw gun for driving a fastening means. The screw gun comprises a driving unit having a driver and a guidepost connected thereto. A camming means is located on the guide post. A cartridge holder is slidably affixed to the guidepost and constructed to support a cartridge. The camming means is constructed and arranged to cooperate with the cartridge holder to index a cartridge when it is supplied to the cartridge holder. None of the references cited by the examiner include each of these elements

including at least a guidepost having a camming means or a cartridge holder slidably affixed to the guidepost and constructed to support a cartridge or the camming means which is constructed and arranged to cooperate with the cartridge holder to index the cartridge when supplied to the cartridge holder. Accordingly, applicants respectfully request that the examiner reconsider and withdraw the rejection under 35 U.S.C. § 102(b).

Claim 68 is dependent on claim 1 and, accordingly, is not anticipated by the cited references for the reasons set forth for claim 1.

Applicants have added new claims 69-93. The claims are patentably distinct over the prior art.

Applicants have canceled non-elected claims 32-67 since they are no longer in the case. Applicants reserve their right to pursue the subject matter of these claims in a divisional application.

For the forgoing reasons, applicants respectfully submit that the pending claims comply with the Patent Laws, including 35 U.S.C. §§ 102 and 112. Allowance of the claims is respectfully requested.

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Respectfully submitted,

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